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EXAMINER
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/682,522
Filing Date: September 14, 2001
Appellant(s): COOPER ET AL.

Benjamin Stasa (Reg No. 55,644)
<u>For Appellant</u>

EXAMINER'S ANSWER

(1) Real Party in Interest

This is in response to the appeal brief filed July 17, 2006 appealing from the Office action mailed January 18, 2006. Claims 1-22 are pending.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Cirinna et al, US 2002/0173973

Wagorn et al, US 2002/0002509

"Core web programming" by Marty Hall, Prentice Hall Publishers, 1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated

by Cirinna et al (US2002/0173973).

As per claim 1, Cirinna teaches a website to retrieve an employee identification

credential from a client computer in response to the client's HTTP request (paragraph

13), where the employee credential includes an employee name and function attribute

(58); present human resource information and services to the client (claim 11), at least

one of which is access to the employee's personal data of record (76) which are based

upon the employee identification credential (76); and receive input from the client

updating the employee's personal data of record (claim 17, perform employment-related

function).

As per claim 3, Cirinna teaches the human resource information and services

presented additionally comprise employment benefits information and services (76,

benefits).

As per claim 4, Cirinna teaches one of the employment benefits services

comprises an interactive retirement earnings estimation (76, compensation and

employee data).

As per claim 5, Cirinna teaches the employment benefits information comprises the employee's total compensation (76, compensation).

As per claim 6, Cirinna teaches the human resources information and services additionally comprise employee compensation information of record (76, employee data).

As per claim 7, Cirinna teaches the human resource information and services presented additionally comprise vehicle lease and purchase information and services (76, employee discounts).

As per claim 8, Cirinna teaches the vehicle purchase service comprises an interactive vehicle lease and purchase transaction (76, online benefits).

As per claim 9, Cirinna teaches the human resource information and services comprising life events and support information (76, benefits).

As per claim 10, Cirinna teaches the human resource information and services comprise management information and services which are presented to employees having an employee identification credential containing a management employment function attribute (76, workforce management).

As per claim 11, Cirinna teaches the information comprises employee data for all subordinates to the manager accessing the website (76, workforce management).

As per claim 12, Cirinna teaches additional configuration to receive input updating a subordinate employee's job data (70, personnel management).

As per claim 13, Cirinna teaches the information and services comprise professional development information and services (76, training).

As per claim 14, Cirinna teaches professional development information comprises employee education and training class information and schedules (70, training).

As per claim 15, Cirinna teaches the professional development services comprise interactively registering an employee for an employee education or training class (76, web seminars).

As per claim 16, Cirinna teaches the professional development information comprising an employee's education training history (76, training).

As per claim 17, Cirinna teaches presenting an employee manager with the training history of all the manager's subordinates (70, training).

As per claim 18, Cirinna teaches the information and services comprise employment policy and program information (70, knowledge).

As per claim 20, Cirinna teaches a server connected to a human resource database and serving the website to a plurality of client computers via a network (paragraph 12-13), the server configured to: retrieve employee identification credential from a client computer in response to a client's HTTP request at the human resource website wherein the credential includes an employee name and role attribute (paragraph 43 and (76)); serve human resource information and services to the client, at least one of which comprises access to the employee's personal information record (Figure 3) wherein the information and services are presented based upon the credential (paragraph 43); and receive input from the client updating the personal information record (76).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Cirinna in view of Official Notice as supported by "Core web programming" by Marty

Hall, Prentice Hall Publishers, 1998.

As per claims 2 and 21, Cirinna does not explicitly teach a cookie that contains

the employee identification credential (Official notice is taken that both the concept and

the advantage of utilizing a cookie with an interactive website is well known and

expected in the art. It would have been obvious to one of ordinary skill in the art at the

time of the invention to use a cookie in conjunction with an interactive website to

facilitate the storage and retrieval of information).

Claims 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Cirinna in view of Wagorn et al (US 2002/0002509).

As per claim 19 and 22, Cirinna does not explicitly teach a server redirecting

based upon language attribute to another information site in the designated language of

the attribute. Wagorn teaches that it is known to use a central database which diverts to

another database in a different language based upon information submitted by the user

(see Figure 4 and paragraphs 146-148) for the purpose of accommodating the language

preference of the user. Wagorn is an analogous art in that is also teaches web services

that access databases based upon the user input. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to modify the web

system of Cirinna with the language adaptability system of Wagorn for providing the

information in the user preferred language.

(10) Response to Argument

With respect to the applicant's argument of claim 1 that Cirinna et al (US

2002/0173973) does not teach "retrieve an employee identification credential from a

client computer", the Examiner disagrees and asserts that Cirinna does teach retrieving

an identification credential as noted in paragraph 13 where there is an interactive

Internet website that enables only the employees of the identified company to access

and interact with the electronic information system and in addition, paragraph 57

teaches a login button ((156) which activates the authentication application (114) to

identify the specific user. This information is used to customize the web page for the

user based on the employee profiling data or as a security measure to prevent

unauthorized access. Therefore, Cirinna teaches retrieving an identification credential

since this would be required for the user to log into the web site of an employee only

web site. The use of an authentication application verifies the identification credential so

that the user can open their customized web page.

With respect to the applicant's argument of claim 2 that Cirinna does not make it

obvious to use cookies to retrieve the identification credential, the Examiner asserts

Cirinna teaches cookies (paragraph 49), but does not explicitly teach it contains the

employee identification credential. Therefore the Examiner took official notice of the well

known fact that cookies contain log-in information, which would include the identification

credential, and that the use of cookies are old and well known in the art of internet web

pages with log-in access.

Examiner additionally notes the following discussion of Official Notice taken from the

MPEP:

> To adequately traverse such a finding, an applicant must specifically
> point out the supposed errors in the examiner's action, which would
> include stating why the noticed fact is not considered to be common
> knowledge or well-known in the art. See 37 CFR 1.111(b). See also
> *Chevenard, 139 F.2d at 713, 60 USPQ at 241* ("[I]n the absence of any
> demand by appellant for the examiner to produce authority for his
> statement, we will not consider this contention."). A general allegation
> that the claims define a patentable invention without any reference to the
> examiner's assertion of official notice would be inadequate. If applicant
> adequately traverses the examiner's assertion of official notice, the
> examiner must provide documentary evidence in the next Office action if
> the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also
> *Zurko, 258 F.3d at 1386, 59 USPQ2d at 1697* ("[T]he Board [or
> examiner] must point to some concrete evidence in the record in support
> of these findings" to satisfy the substantial evidence test). If the examiner
> is relying on personal knowledge to support the finding of what is known
> in the art, the examiner must provide an affidavit or declaration setting
> forth specific factual statements and explanation to support the finding.
> See 37 CFR 1.104(d)(2). If applicant does not traverse the examiner's
> assertion of official notice or applicant's traverse is not adequate, the
> examiner should clearly indicate in the next Office action that the
> common knowledge or well-known in the art statement is taken to be
> admitted prior art because applicant either failed to traverse the
> examiner's assertion of official notice or that the traverse was
> inadequate. If the traverse was inadequate, the examiner should include
> an explanation as to why it was inadequate. (MPEP § 2144.03(C))

Applicant has not "specifically point[ed] out the supposed errors in the examiner's

action, which would include stating why the noticed fact is not considered to be common

knowledge or well-known in the art." For these reasons, the use of cookies is taken to

be admitted prior art because Applicant's traversal was inadequate. Furthermore,

Examiner submits "Core web programming" by Marty Hall, Prentice Hall Publishers,

1998 as evidence to support that Official Notice was properly taken. See pages 900 and

1010. "Browsers provide a mechanism that lets server-side programs store simple

information on the client machine, where the term cookie is used for this information.

The browser may include the cookie data in future requests to the same server, but will

not send it to servers in other domains. Cookies allow sites to store user preferences to

supply a user-id and/or password that the user need not retype in later sessions, to

keep track of purchases, to track user's activity while at the site and other similar

capabilities. Hidden fields in HTML input forms can maintain data between connections

in a single session, but this data is lost in later sessions or if the user directly loads a

page without also including query data. Therefore the need for cookies arose such that

it allows the user to select permanent preferences, provide access information or

maintain contextual information across sessions. Cookies can also have expiration

dates to control how long the cookies will remain valid."

With respect to the applicant's argument of claim 17 that Cirinna fails to teach

presenting a manager with the training history of the manager's subordinate employees,

the Examiner asserts that Cirinna teach providing the training history in paragraphs 39-

40. Cirinna teaches allowing a technology manager to use the web site for personnel

management, demand forecasting and obtaining and providing services such as

documenting maintenance, training, assets and system changes, whereby the manager

is provided means for personnel management including documenting of training, which

constitutes a training history of the employees. See also Figure 3, item 70 and 76 which

lists training as one of the items of record for the employee, whereby the manager has

access rights to view any subordinates records, which would include training. In

addition, the claim language "configured to" constitutes intended use and does not

positively recite the claim limitations. In addition, the training history data represents

non-functional descriptive material and, in fact, can be represented by any type of data.

Non-functional descriptive material is not functionally involved in the steps recited nor

do they alter the recited structural elements. The recited method steps would be

performed the same regardless of the specific data. Further, the structural elements

remain the same regardless of the specific data. Thus, this descriptive material will not

distinguish the claimed invention from the prior art in terms of patentability, *see In re*

Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32

F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP ∍ 2106.

With respect to the applicant's argument to claims 19 and 22 that there is no

motivation to combine Cirinna et al and Wagorn et al (US 2002/0002509), the Examiner

asserts that Wagorn is an analogous art as it is in the same field of endeavor: websites

with user access. The fact that the intended use of the website of Cirinna is different

from the intended use of Wagorn is irrelevant since the functionality of the website is

comparable. Cirinna contains a website which utilizes a user's input to access

databases of information which display and inform the user with respect to the

information it contains. Wagorn also utilizes a website that has a user interacting with

the site to access information that is contained in databases, whereby the information is

displayed to the user and informs the user of its contents. Therefore the basic

functionality of how the website works and the types of interactions it allows is the same. In response to applicant's argument concerning improper motivation to combine references, the examiner asserts that 'the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art." In re Keller, Terry, and Davies, 208 USPQ 871, 881 (CCPA 1981). In the instant case, both websites allow user input and the user can access and interact with a database of information through the website. The motivation to combine the references nor the suggestion from the references of the desirability of the applicant's claimed invention are required to be provided from the references themselves. The fact that Wagorn teaches the use of different languages on the website can easily be applied to any other website, including the one described in Cirinna, so that the user can understand the website. It would be obvious for Cirinna to incorporate a language attribute upon log-in that would allow the employee to have their website be in a language they could read and understand, since Cirinna already customizes the website according to the user that logs-in with their respective information. Therefore it would only make sense that the person would also have their information in a language they could read, otherwise it would be pointless to have the website customized with the employee's information.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Linda Krisciunas

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